

REMARKS

Referring to Claim 77, the Examiner has requested that Applicant elect a specific form of overexpression. Applicants elect overexpression of MDR-1, with traverse. All Group I claims are believed to be readable on this species.

Referring to Claim 79, the Examiner has requested that Applicant elect a specific form of resistance. Applicants elect inherent resistance, with traverse. All Group I claims are believed to be readable on this species.

Referring to Claim 81, the Examiner has requested that Applicant elect a specific mode of administration. Applicants refer the Examiner to Applicants' December 12, 2006 Response, wherein Applicant stated "Applicants provisionally elect treatment with the Formula II compound after the chemotherapeutic agent, with traverse" (emphasis added). This statement adequately addresses the Examiner's current request for election of species in connection with claim 81. All Group I claims are believed to be readable on this species.

The remaining portion of the current office action (bottom of page 2 through page 11) is more or less a re-statement of the Examiner's restriction requirement mailed November 24, 2006. Therefore, responsive to this portion of the office action Applicants again refer the Examiner to Applicants' fully responsive December 12, 2006 Response.

Applicants see absolutely no purpose in the Examiner now requiring, nearly two years after the initial restriction, additional elections in connection with claims which are peripheral to the invention. This second restriction requirement will not result in a reduction of the search burden on the Examiner in any meaningful way. The previous election of a single compound, particularly coupled with the further elections of a specific combination agent, a specific tumor type, and a specific mode of administration, already serve to reduce the search burden to very manageable proportions. Conversely, this second restriction requirement places an unnecessary burden on Applicants and serves to further delay meaningful prosecution on the merits, allowance and issuance of the pending claims.

Applicants reserve the right to file divisional applications directed to the non-elected subject matter in the event the restriction is deemed to be warranted.

Finally, the October 2, 2008 office action *failed to even acknowledge* Applicants' April 11, 2008 Response to the Examiner's December 14, 2007 non-final office action, including the accompanying affidavit containing data. Applicants respectfully request that the Examiner fully consider the April 11, 2008 Response and accompanying affidavit and promptly issue a Notice of Allowance.

If any further discussion is warranted, the Examiner is invited to contact the undersigned at 845-602-4760.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David Rubin". The signature is fluid and cursive, with the first name "David" and last name "Rubin" clearly distinguishable.

David Rubin

Reg. No. 40,314

Wyeth
Patent Law Department
Five Giralda Farms
Madison, NJ 07940
Tel. No. (845) 602-4760